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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 EDWIN B. STEARNS, JR.,

10 Plaintiff,

11 v.

12 KATHERINE R. STEARNS, *et al.*,

13 Defendants.
14

Case No. C22-1579RSL

ORDER OF DISMISSAL
WITHOUT LEAVE TO
AMEND


15 On January 23, 2023, this Court issued an Order of Dismissal (Dkt. # 28), dismissing
16 plaintiff's complaint for lack of subject matter jurisdiction. The Court provided plaintiff with
17 thirty (30) days from the filing of the Order of Dismissal to file an amended complaint curing
18 the deficiencies identified in the Order. The Court further noted that if plaintiff failed to cure the
19 identified deficiencies in his second Amended Complaint, the Court would dismiss without
20 leave to amend.

21 A federal court may dismiss an action on its own motion if it finds that it lacks subject
22 matter jurisdiction over the action. *Fiedler v. Clark*, 714 F.2d 77, 78-79 (9th Cir. 1983); *see also*
23 Fed. R. Civ. P. 12(h)(3) ("If the court determines at any time that it lacks subject-matter
24 jurisdiction, the court must dismiss the action."). A court, however, "has an obligation to warn
25 the plaintiff that dismissal is imminent." *Oliva v. Sullivan*, 958 F.2d 272, 274 (9th Cir. 1992). A
26 court may dismiss an action without leave to amend where it is clear that "the complaint could
27 not be saved by amendment." *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th
28 Cir. 2003); *see also Chaset v. Fleer/Skybox Int'l, LP*, 300 F.3d 1083, 1087-88 (9th Cir. 2002).

1 The thirty days provided to plaintiff to amend his complaint have now passed, and
2 plaintiff has failed to file an amended complaint. Additionally, this is the second time the Court
3 has warned plaintiff that the Court lacks subject matter jurisdiction over his claims. *See* Dkt.
4 # 13 (sua sponte order issued by the Court ordering plaintiff to show cause why his complaint
5 should not be dismissed for lack of subject matter jurisdiction). The facts as pleaded do not give
6 rise to jurisdiction, and no amendment will cure this deficiency. Accordingly, the Court
7 dismisses plaintiff's Amended Complaint without leave to amend.

8 For all the foregoing reasons, plaintiff's Amended Complaint is dismissed for lack of
9 subject matter jurisdiction without leave to amend. The Clerk of Court is directed to enter
10 judgment against plaintiff and in favor of defendants. IT IS SO ORDERED.

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12 DATED this 23rd day of February, 2023.

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15 Robert S. Lasnik
16 United States District Judge
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